

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

Order No. O-12-149

AMENDED FINAL AGENCY ORDER

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF ALLIANT
NATIONAL TITLE INSURANCE COMPANY, INC.

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance ("Commissioner") as a result of a market conduct examination ("MCE") conducted by the Colorado Division of Insurance ("Division") of Alliant National Title Insurance Company, Inc. ("Respondent"), pursuant to §§ 10-1-203, 10-1-204, and 10-1-205, as well as § 10-3-1106, C.R.S.

The Commissioner has fully considered and reviewed the Verified MCE Report ("Report") dated January 30, 2012, the written submissions and rebuttals provided February 28, 2012, by Respondent in response to the Report, and the recommendations of staff.

The Report covers the examination period of January 1, 2010, through December 31, 2010.

The Commissioner makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. At all relevant times during the examination, the Respondent was licensed by the Division to conduct business as a title insurer in the State of Colorado.
2. On November 28, 2011, in accordance with §§ 10-1-201, 10-1-203, 10-1-204, and 10-1-205, as well as § 10-3-1106, C.R.S., the Division completed an MCE of the Respondent. The period of examination was January 1, 2010, through December 31, 2010.
3. In conducting the MCE, the examiners observed those guidelines and procedures set forth in the 2010 Market Regulation Handbook adopted by the National Association of Insurance Commissioners.
4. The MCE was completed on November 28, 2011. Pursuant to § 10-1-205(2) the market conduct examiners prepared the Report, which the Examiner-in-Charge timely

filed with the Division, under oath, on January 30, 2012. The Report was subsequently timely transmitted to Respondent on January 30, 2012.

5. On January 30, 2012, the Division provided the Respondent with written notification that it was afforded a right to file, within thirty (30) days, written submissions or rebuttals with respect to any matter contained in the Report.
6. Pursuant to § 10-1-205(1), C.R.S., the Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons who were examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
7. On February 28, 2012, Respondent timely filed written submissions and rebuttals to the Report as provided for at § 10-1-205(2), C.R.S.
8. The Commissioner has fully considered and reviewed the Report, Respondent's February 28, 2012, submissions and rebuttals to the Report, and the recommendations of staff. The Respondent provided detailed written submissions and rebuttals in which it challenged the allegations, findings and conclusions in the Report.
9. The MCE has proceeded under the substantive terms, authority and procedures set forth at §§ 10-1-203, 10-1-204 and 10-1-205, C.R.S., as well as § 10-3-1106, C.R.S.
10. This MCE was not conducted as an informal investigation of consumer complaints.
11. This MCE did not proceed and was not conducted as a targeted on-site examination pursuant to § 10-1-212, C.R.S.

CONCLUSIONS OF LAW AND ORDER

12. Pursuant to § 10-1-205(3)(a), C.R.S., the Commissioner adopts the Report as modified ("Modified Report"). The Commissioner has modified the Report as follows: Issue A1 was restated and modified to reflect that although it included multiple exceptions, it was considered a single violation. Issues G7 and J1 were removed from the Report.
13. The Commissioner did not find willful violations of law or regulation.
14. The Commissioner hereby finds the Respondent operated in violation of Colorado insurance law and hereby orders the Respondent to take necessary and appropriate action, as set forth herein, to cure such violations.
15. The Commissioner considered the options available under § 10-1-205(3)(b) and (c), C.R.S. After such consideration the Commissioner did not reject the Report or direct the examiners to reopen the examination for the purposes of obtaining additional data,

documentation, or information, or to re-file the Report pursuant to subsection (1) of § 10-1-205, C.R.S. The Commissioner finds an investigatory hearing, pursuant to § 10-1-205(3)(c), C.R.S., for the purposes of obtaining additional documentation, data, information, and testimony, is not warranted.

16. A copy of the Modified Report is attached to this Amended Final Agency Order and is incorporated herein. The January 30, 2012, Report provided Respondent with the opportunity to show cause as to why it should not be found in violation of the Colorado insurance laws and/or regulations for all issues identified below. Respondent provided its submission and rebuttals on February 28, 2012. The Respondent was required to cure the violations set forth below in the time frame and manner set forth below.
17. Issue A1: Failure, in some instances, to provide an anti-fraud statement as required by Colorado insurance law. This failure constitutes a violation of § 10-1-128, C.R.S. The Respondent was required to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure that all title insurance policies, applications or claim forms include the required verbiage regarding fraudulent acts and penalties, as required by Colorado insurance law. The Division's records indicate that the Respondent has revised its title insurance policies to include the required verbiage regarding fraudulent acts and penalties, which if fully implemented, appears to comply with the corrective actions ordered concerning this violation.
18. Issue F1: Failure, in some instances, to charge rates in accordance with the rates on file with the Commissioner. This failure constitutes a violation of § 10-11-118, C.R.S. and Colorado Insurance Regulation 3-5-1. The Respondent was required to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure that all title policy and endorsement charges are consistent with filed rates as required by Colorado insurance law. The Division's records indicate that the Respondent has revised its rating processes and procedures, which if fully implemented, appear to comply with the corrective actions ordered concerning this violation.
19. Issue G1: Failure, in some instances, to conduct, preserve and retain a reasonable examination of the title. This failure constitutes a violation of § 10-11-106, C.R.S., and Colorado Insurance Regulations 1-1-7 and 3-5-1. The Respondent was required to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure that a reasonable examination of the title is conducted, preserved and retained in its files as required by Colorado insurance law. The Division's records indicate that the Respondent has revised its processes and procedures regarding ensuring that a reasonable examination of the title is conducted, preserved and retained in its files, which if fully implemented, appears to comply with the corrective actions ordered concerning this violation.
20. Issue G2: Failure, in some instances, to obtain a certificate of taxes due or written instructions eliminating the requirement from the proposed insured. This failure

constitutes a violation of § 10-11-122, C.R.S. and Colorado Insurance Regulations 1-1-7 and 3-5-1. The Respondent was required to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure that a certificate of taxes due, or instructions eliminating the requirement, is obtained and retained prior to the issuance of the title policy, as required by Colorado insurance law. The Division's records indicate that the Respondent has revised its processes and procedures regarding obtaining and retaining a certificate of taxes due or instructions eliminating this requirement, which if fully implemented, appear to comply with the corrective actions ordered concerning this violation.

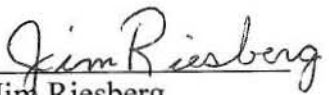
21. Issue G3: Failure, in some instances, to provide evidence of the severed mineral estate disclosure. This failure constitutes a violation of § 10-11-123, C.R.S. and Colorado Insurance Regulation 3-5-1. The Respondent was required to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure that the severed mineral estate disclosure is provided with each title commitment issued for an owner's title insurance policy, when it is determined that a mineral estate has been severed from the surface estate, as required by Colorado insurance law. The Division's records indicate that the Respondent has revised its processes and procedures to ensure that the severed mineral estate disclosure is provided when required, which if fully implemented, appears to comply with the corrective actions ordered concerning this violation.
22. Issue G4: Failure, in some instances, to provide evidence that specific coverage exceptions had been disclosed. This failure constitutes a violation of Colorado Insurance Regulation 3-5-1. The Respondent was required to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure that specific coverage exceptions are disclosed with each title commitment issued for an owner's title insurance policy, when it is determined specific coverage exceptions are required, as required by Colorado insurance law. The Division's records indicate that the Respondent has revised its processes and procedures to ensure that all specific coverage exceptions are disclosed, which if fully implemented, appears to comply with the corrective actions ordered concerning this violation.
23. Issue G5: Failure, in some instances, to require agents to remit premiums within the required contractual time period. This failure constitutes a violation of § 10-2-704, C.R.S., and Colorado Insurance Regulation 3-5-1. The Respondent was required to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure timely remittance of premium, as required by Colorado insurance law. The Division's records indicate that the Respondent has revised its processes and procedures to ensure timely remittance of premium, which if fully implemented, appears to comply with the corrective actions ordered concerning this violation.
24. Issue G6: Failure, in some instances, to report to the Commissioner any remittance that exceeded forty-five (45) days beyond the contractual due date. This failure constitutes a

violation of § 10-2-704, C.R.S., and Colorado Insurance Regulation 3-5-1. The Respondent was required to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure any remittance of premium that exceeds forty-five (45) days from the contractual due date is promptly reported to the Commissioner, as required by Colorado insurance law. The Division's records indicate that the Respondent has revised its processes and procedures regarding reporting of late premium remittance, which if fully implemented, appears to comply with the corrective actions ordered concerning this violation.

25. The issues and violations described in paragraphs 16 through 24 above are grounds for penalties to be levied pursuant to § 10-1-205(3)(d), C.R.S. The Commissioner has ordered a civil penalty in the amount of one hundred fourteen thousand and no/100 dollars (\$114,000.00) for the cited violations of Colorado law. However, the Commissioner hereby stays \$38,000.00 of the \$114,000.00 civil penalty based upon documentation of corrective actions initiated by the Respondent prior to issuance of this Amended Final Agency Order, which appear to correct the cited violations of Colorado law. The stayed portion of the civil penalty shall become due and payable if the Division subsequently determines that the Respondent is not in substantial compliance with all corrective actions included in this Amended Final Agency Order. The remaining \$76,000.00 penalty shall be assessed a surcharge of 10% of the penalty amount up to a maximum of \$7,500.00, pursuant to § 24-34-108, C.R.S., for a total balance due eighty three thousand, five hundred dollars (\$83,500.00). The surcharge shall be used to fund the development, implementation and maintenance of a consumer outreach and education program. The penalty and surcharge shall be due to the Division no later than fifteen (15) days from the date of this Amended Final Agency Order.
26. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of the March 27, 2012 Final Agency Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the Report, as superseded, modified and adopted by this Amended Final Agency Order, dated April 26, 2012.
27. This Amended Final Agency Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Amended Final Agency Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Amended Final Agency Order may result in additional actions, penalties and sanctions, as provided for by law. Respondent expressly reserves and has not waived, and the Division recognizes that Respondent reserves, and has not waived, any and all of its rights to challenge any determination by the Division that Respondent did not comply with this Amended Final Agency Order or to challenge any findings, actions, penalties or sanctions proposed or applied by the Division in any future MCE.

28. Notwithstanding the foregoing, the Division plans to conduct a follow-up market conduct examination of Respondent's title business to verify the effectiveness of Respondent's corrective actions in achieving compliance with Colorado law and to address the stayed portion of the civil penalty. Such follow-up market conduct examination shall not commence before April 1, 2013, and shall not include an examination period commencing before April 1, 2012. Such follow-up examination shall include, but may not be limited to: 1) accuracy of premium charges; 2) conducting and retaining evidence of a reasonable title search; 3) disclosure of exceptions to coverage; and 4) timely remittance of premiums.
29. Copies of the March 27, 2012 Modified Report and this Amended Final Agency Order will be made available to the public no earlier April 27, 2012.
30. Pursuant to § 10-1-205(4)(a), C.R.S., this Amended Final Agency Order supersedes and fully replaces the March 27, 2012 prior Final Agency Order (O-12-137) and shall be considered a final agency decision. Pursuant to the Respondent's letter dated April 26, 2012 to the Commissioner, Respondent has agreed to waive and will not seek review of such decision in the District Court in and for the City and County of Denver under the "State Administrative Procedure Act," Article 4 of Title 24, C.R.S.
31. Pursuant to § 10-1-205(4)(e), C.R.S., the civil penalty assessed in this Amended Final Agency Order could have been appealed directly to the Colorado Court of Appeals within the applicable time frames of the Colorado Appellate Rules. However, pursuant to the Respondent's letter to the Commissioner dated April 26, 2012, Respondent has also agreed to waive its right to seek and will not seek any such review.

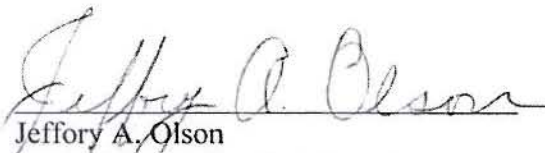
WHEREFORE, The Report dated January 30, 2012, subsequently adopted by the Commissioner with modifications on March 27, 2012, along with the findings of facts and conclusions of law contained within this Amended Final Agency Order incorporating the adopted Modified Report are hereby approved effective this 26th day of April, 2012, and filed and made an official record of this office.


Jim Riesberg
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 27th day of April, 2012, I caused to be deposited the AMENDED FINAL AGENCY ORDER NO. O-12-149 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF ALLIANT NATIONAL TITLE INSURANCE COMPANY, INC., in the United States Mail via certified mailing with postage affixed and addressed to:

Mr. Robert J. Grubb, President
Alliant National Title Insurance Company, Inc.
1831 Lefthand Circle, Suite G
Longmont, CO 80501-6768

A handwritten signature in dark ink, appearing to read "Jeffery A. Olson", is written over a horizontal line.

Jeffery A. Olson
Senior Market Conduct Examiner
Division of Insurance